



8011-01P  
SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67998; File No. SR-ICEEU-2012-07)

October 5, 2012

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Revise CDS Procedures Related to Clearing Certainty Requirements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 25, 2012, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I and II below, which items have been prepared primarily by ICE Clear Europe. The Commission is publishing this Notice and Order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization’s Statement of Terms of Substance of the Proposed Rule Change

ICE Clear Europe is in regular communication with representatives of its Clearing Members, as that term is defined in the CDS Procedures of ICE Clear Europe (the “CDS Procedures”) in relation to the operation of clearing processes and arrangements. The purpose of the proposed rule changes is to implement in its CDS Procedures new clearing certainty requirements under Commodity Futures Trading Commission (“CFTC”) Rules 39.12(b)(7) and 1.74(b), which become effective on October 1, 2012. All capitalized terms not defined herein are defined in the CDS Procedures.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

As noted above, the principal purpose of the proposed procedure amendments is to update the particular characteristics of the CDS Procedures applicable to the clearing of CDS Contracts. Specifically, the proposed rule changes affect Part 4 of the CDS Procedures by addressing the timeframe under which trades must be accepted or rejected for clearing under new CFTC rules and adding certain clarifying language around the weekly CDS clearing cycle. Each of these changes is described in detail as follows.

Paragraph 4.4(b) and 4.5 of the CDS Procedures will be revised to clarify the acceptance timing and procedures for the weekly CDS clearing cycle in light of the new clearing certainty requirements under CFTC rules.

Under paragraph 4.19 of the revised CDS Procedures, ICE Clear Europe will incorporate new CFTC Rule 39.12(b)(7)(ii), which requires, among other things, that ICE Clear Europe accept or reject trades submitted for clearance that are executed competitively on or subject to the rules of a designated contract market or swap execution facility (or similar facility) as soon after execution as would be technologically practicable if fully automated systems were used.

Under paragraph 4.20 of the revised CDS Procedures, ICE Clear Europe will incorporate new CFTC Rule 39.12(b)(7)(iii), which requires, among other things, that ICE Clear Europe accept or reject trades submitted for clearance that are not executed competitively on or subject to the rules of a designated contract market or swap execution facility (or similar facility) as soon after submission for clearing would be technologically practicable if fully automated systems were used.

Finally, under paragraph 4.21 of the revised CDS Procedures, ICE Clear Europe will implement the standards of CFTC Rule 1.74(b) that require Clearing Members to accept or reject each Trade submitted by or for the Clearing Member as quickly as would be technologically practicable if fully automated systems were used. Clearing Members would also be required to submit such Trades to ICE Clear Europe following such acceptance as quickly as would be practicable if fully automated systems were used.

ICE Clear Europe believes that the proposed rule changes are consistent with the purposes and requirements of Section 17A of the Act and the rules and regulations thereunder applicable to it. ICE Clear Europe believes that implementing the CFTC's clearing certainty requirements will comply with the Act and the rules and regulations thereunder.

**B. Self-Regulatory Organization's Statement on Burden on Competition**

ICE Clear Europe does not believe that the proposed rule change will have any impact or impose any burden on competition.

**C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

ICE Clear Europe has not solicited and does not intend to solicit comments regarding this proposed rule change. ICE Clear Europe has not received any unsolicited written comments from interested parties.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

- Electronic comments may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ICEEU-2012-07 on the subject line.
- Paper comments should be sent in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C., 20549-1090.

All submissions should refer to File Number SR-ICEEU-2012-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal

office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/notices/Notices.shtml>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2012-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

Section 19(b) of the Act<sup>3</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act, and the rules and regulations thereunder applicable to ICE Clear Europe.<sup>4</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions because the proposed rule change should allow ICE Clear Europe to incorporate into its CDS Procedures language that articulates the time frame in which trades must be accepted or rejected under new CFTC rules.<sup>5</sup>

In its filing, ICE Clear Europe requested that the Commission approve this proposed rule

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<sup>3</sup> 15 U.S.C. 78s(b).

<sup>4</sup> 15 U.S.C. 78q-1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

change on an accelerated basis for good cause shown. ICE Clear Europe cites as the reason for this request ICE Clear Europe's operation as a DCO, which is subject to regulation by the CFTC under the CEA. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice in the Federal Register because the proposed rule change allows ICE Clear Europe to implement the regulations of another federal regulatory agency, the CFTC, in accordance with those regulations' effective date.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-ICEEU-2012-07) is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).